

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MICHEL HUTCHINS,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-05-0743-F
)	
FIELD SUPPORT SERVICES, INC.,)	
a foreign corporation,)	
)	
Defendant.)	

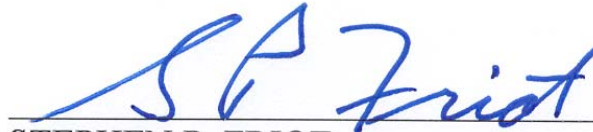
ORDER

“Defendant’s Motion to Dismiss Plaintiff’s Claims in Part,” filed September 6, 2005, is before the court. (Doc. no. 14.) The motion seeks dismissal of a portion of plaintiff’s claims under Rule 12(b)(6), Fed. R. Civ. P. Specifically, defendant seeks dismissal of plaintiff’s claims for compensatory and punitive damages.

Although any response to the motion was due September 26, 2005, plaintiff has not responded and has not sought an extension of time within which to respond. Moreover, defendant has cited authority which indicates that neither emotional distress damages nor punitive damages are available under the Age Discrimination in Employment Act, the statute pursuant to which this action is brought. *See, C.I.R. v. Schleier*, 515 U.S. 323, 326 (1995) (noting that appeals courts have unanimously held the ADEA does not permit a separate recovery of compensatory damages for pain and suffering or emotional distress); *Bruno v. Western Elec. Co.*, 829 F.2d 957, 966-67 (10th Cir. 1987) (joining other circuits which have held that a plaintiff cannot recover punitive damages under the ADEA). In these circumstances, the court finds that it is appropriate to deem defendant’s motion confessed. *See, LCvR7.2(f).*

Having considered the briefing, the pleadings, and the relevant authorities, defendant's "Motion to Dismiss Plaintiff's Claims in Part" is hereby **GRANTED** as confessed. Accordingly, plaintiff's claims for compensatory damages (part "c" in the prayer of the Complaint) and for punitive damages (part "e" in the prayer of the Complaint) are **DISMISSED** with prejudice under Rule 12(b)(6), Fed. R. Civ. P.

Dated this 28th day of September, 2005.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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